

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:14-CV-160-BO

NEAL ADVIN POWELL,

Plaintiff,

v.

CAPE FEAR VALLEY HOSPITAL,

Defendant.

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ORDER

This matter is before the Court on the Memorandum and Recommendation (“M&R”) of United States Magistrate Judge William A. Webb [DE 6]. The Court ADOPTS the M&R. Plaintiff’s claims are DISMISSED.

BACKGROUND

Plaintiff, an inmate at the Cumberland Detention Center in Fayetteville, North Carolina filed a complaint alleging negligence and medical malpractice against Cape Fear Valley Hospital, a private hospital, on March 18, 2014. After conducting a frivolity review pursuant to 28 U.S.C. § 1915(e)(2), Magistrate Judge Webb filed his M&R on April 23, 2014 and recommended that the complaint be dismissed for lack of subject matter jurisdiction. Plaintiff did not object to the M&R.

DISCUSSION

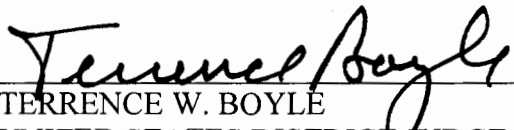
The Court adopts the M&R because plaintiff has made no objections to it and because the M&R is not clearly erroneous or contrary to law. 28 U.S.C. § 636 (b)(1)(B). A district court is only required to review an M&R de novo if the plaintiff specifically objects to it or in cases of plain error. *Id.*; *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). The Magistrate Judge found that

there was no diversity jurisdiction and plaintiff's complaint stated no cognizable federal claim and therefore recommended that the complaint be dismissed for lack of subject matter jurisdiction. The Magistrate Judge has not committed plain error in this instance. Therefore, the Court adopts the Magistrate Judge's recommendations and dismisses plaintiff's complaint.

CONCLUSION

For the foregoing reasons, the Court ADOPTS the Magistrate Judge's recommendations [DE 6]. Accordingly, plaintiff's claims are DISMISSED. The Clerk is directed to enter judgment accordingly and to close the file.

SO ORDERED, this 7 day of June, 2014.



TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE